

STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION

COMMONWEALTH EDISON COMPANY	:	
	:	
Petition for approval of delivery services tariffs and	:	
tariff revisions and of residential delivery services	:	No. 01-0423
implementation plan, and for approval of certain	:	
other amendments and additions to its rates, terms,	:	
and conditions.	:	

Phase II Rebuttal Testimony of
MICHAEL F. BORN, P.E.
Consulting Engineer,
Distribution Planning Department
Commonwealth Edison Company

1 Q. Please state your name.

2 A. Michael F. Born.

3 Q. Are you the same Michael F. Born who has previously presented testimony on behalf of
4 Commonwealth Edison Company (“ComEd”) in this Docket?

5 A. Yes, I am.

6 Q. What are the purposes of your Phase II rebuttal testimony?

7 A. There are two limited purposes to my Phase II rebuttal testimony. First, I will comment
8 on the Phase II direct testimony of the “Governmental and Consumer” (“GC”) parties’
9 witness, David Effron (GC Exhibit 7.0), concerning re-calculation of the Liberty
10 Consulting Group’s (“Liberty”) adjustment to the “trend line” in distribution operating
11 and maintenance (“O&M”) expenses to reflect refunctionalization. Second, I will present
12 a portion of ComEd’s response to Mr. Effron’s claim that Liberty had no choice but to
13 base its conclusions about ComEd’s capital investment on indirect, levelization
14 methodologies because Liberty did not have access to adequate information to perform a
15 true prudence analysis. In the course of that discussion, I will briefly discuss the Phase II
16 direct testimony of Illinois Commerce Commission (“ICC”) Staff witness Bryan Sant
17 (Staff Exhibit 28.0).

18 **Mr. Effron’s Proposals Concerning Liberty’s**
19 **Treatment of O&M Refunctionalization**

20 Q. Please describe how Liberty addresses the increase in distribution O&M expenses that
21 occurred as a result of the refunctionalization of transmission and distribution facilities
22 approved by the Federal Energy Regulatory Commission (“FERC”) and the ICC.

23 A. As a result of the FERC- and ICC-approved refunctionalization of transmission and
24 distribution facilities, the scope of the facilities considered to be distribution increased,
25 with roughly 40% of the facilities formerly classified as transmission being recognized as
26 distribution. This refunctionalization produced a corresponding upward shift in ComEd's
27 distribution O&M expenses during and after 2000. Liberty recognized that this
28 refunctionalization had to be considered, since otherwise its "trend-line" analysis would
29 understate the true O&M costs post-refunctionalization. In an attempt to deal with the
30 effect of refunctionalization on its "trend-line" approach, Liberty estimated a single
31 percentage escalator – 6.7% – by which proportion Liberty assumes refunctionalization
32 would have increased distribution O&M expenses in each year prior to 2000. Liberty
33 calculated this percentage as equal to the average of the percentages, as also calculated by
34 Liberty, by which refunctionalization had increased distribution O&M expenses in 2000
35 and 2001. Liberty then multiplied the actual annual distribution O&M expense in each of
36 the years 1991 through 1999 by its 6.7% escalator to arrive at its estimate of what such
37 expenses would have been on a refunctionalized basis. The calculations for this process
38 are depicted on page II-53 of Liberty's audit report (the "Audit Report").

39 Q. What revisions to Liberty's proposed methodology does Mr. Effron propose?

40 A. Mr. Effron proposes two different, mutually exclusive techniques. First, he proposes
41 calculating the percentage refunctionalization adjustment based not only on the 2000 and
42 2001 data, but also on the calculated impact on the 1997 test year distribution O&M
43 expenses of the refunctionalization conducted for ComEd's 1999 delivery services rate
44 case, Docket No. 99-0117. Mr. Effron discusses this proposal on page 14 of his Phase II
45 direct testimony (GC Exhibit 7.0). Second, in the alternative, Mr. Effron proposes

redoing Liberty's "trend-line" analysis without including the effect of any refunctionalization in any year, and then adding to the final result the same amount of additional distribution O&M as was approved by the ICC for the 1997 test year in the 1999 delivery services rates case. Mr. Effron discusses this proposal on page 14 of his Phase II direct testimony.

Q. Is Mr. Effron's first modification to Liberty's proposed adjustment warranted?

A. Assuming that Liberty's basic approach to normalization was at all valid (which it was not), then yes. Mr. Effron is correct that Liberty's approach ignores useful data, namely the estimate of the effect of refunctionalization considered and approved by the ICC in ComEd's 1999 delivery services rate case. While O&M expenses were not actually refunctionalized in 1997, ComEd did a study to calculate the effect of refunctionalization on distribution O&M expenses in that year and the ICC accepted it. There is no reason to ignore that information. Moreover, there is good reason to consider it, along with the 2000 and 2001 data that Liberty did consider: ComEd's high-voltage maintenance practices during 1997 were closer to those in other years during the 1990s, and thus including the 1997 data point would increase the likelihood that the resulting adjustment percentage would be accurate, within the context of Liberty's proposed adjustment.

Mr. Effron also correctly points out that Liberty miscalculated the basis for the percentage calculations of the portion of the O&M refunctionalized. Adopting both of these adjustments results in a calculated value for distribution O&M expense (otherwise using Liberty's methodology) of \$290,348,785. A copy of a revised spreadsheet roughly in the form of the spreadsheet on page II-53 of the Audit Report is attached as ComEd Exhibit 119.1.

Q. Please evaluate Mr. Effron's alternative method of adjusting for refunctionalization within the Liberty approach.

A. ComEd opposes this proposal, even though ComEd believes that it would result in a greater revenue requirement. This proposal uses 1997 data alone and simply adds it to an (already flawed) estimate of 2000 un-refunctionalized O&M, as if the 1997 data validly measured 2000 expenses. It does not. While considering 1997 data, along with 2000 and 2001 data, is more appropriate if one wishes to develop an average multiplier to apply to all years from 1991 through 1999, there is no reason to replace actual 2000 data with an estimate based on 1997 data.

**Liberty Had Ample Data To Perform A Valid
Prudence Analysis Of ComEd's Capital Investment**

Q. Does Mr. Effron conduct any independent analysis of the prudence of ComEd's investments?

A. No. Mr. Effron accepts Liberty's rate base adjustments "in principle," apparently without undertaking any independent evaluation of whether any imprudence was involved.¹

Q. Does Mr. Effron offer any rationale for his or Liberty's failure to analyze prudence?

A. Yes. In his case, he testifies that an examination of Liberty's conclusions would not be possible "in the time frame for the testimony in this phase of the docket." (GC Exhibit 7.0 at page 21). Although stated in connection with his discussion of distribution O&M expenses, he also observes that Liberty found that it could not rely on ComEd's

¹ Mr. Effron's testimony does not expressly accept Liberty's core notion that by deferring capital investments, ComEd increased its rates. Mr. Effron, rather says: "For example, **if** the actual costs of plant additions were overstated or **if** ComEd incurred excess costs because it had to accelerate spending due to under-investment in earlier years, then such costs should be excluded from rate base." (GC Exhibit 7.0 at page 21 (emphasis added)). Mr. Effron is curiously silent on whether deferral unaccompanied by any overstated or excess cost warrants any capital disallowance.

books and records to make adjustments ““at the discrete program or individual account level,”” apparently because ComEd’s accounting records do not separately record “remedial” programs. (GC Exhibit 7.0 at page 6 (apparently quoting Audit Report)).

Q. Was there, in fact, sufficient information and time available to Liberty conduct a valid prudence audit of ComEd’s major distribution capital investments from 1998 to 2000, and for Mr. Effron to evaluate it?

A. Yes. ComEd’s production of information to Liberty and other parties contained ample information for Liberty to conduct a proper audit of ComEd’s decisions and costs with respect to major distribution construction projects (including those specifically discussed by Liberty) to determine if they were reasonable given the information then available to ComEd, and ample information to evaluate the quality of Liberty’s audit. There is no basis for asserting that Liberty had inadequate data to conduct the audit properly, or that there were inadequate data to properly evaluate the Liberty audit. Those data address in detail, for example, ComEd’s load forecasting, its identification of capacity needs and options to address them, its analysis of alternatives to determine which options were workable and the most cost-effective, its development of implementation plans and designs, and its project management and construction. Where projects were deferred, the data allowed for an individual analysis of whether the deferral was appropriate, under the standard I discussed above, given the changes in the need and the availability and attractiveness of alternatives.

Mr. Effron’s statement that he did not have time to review Liberty’s conclusions is particularly unsupportable. In fact, Mr. Effron (or any other party) had ample time and opportunity to review Liberty’s conclusions and the underlying data. ComEd voluntarily

112 produced to all parties the text of ComEd's responses to Liberty's numerous audit data
113 requests on a searchable CD-ROM on November 25, 2002, and about a week later made
114 available to the parties the over 250,000 pages of documents (*see* page I-16 of the Audit
115 Report) provided to Liberty during the audit in a "data room" with computer capability.

116 Q. Does ICC Staff witness Bryan Sant testify to any conclusions regarding ComEd's
117 prudence?

118 A. No, he does not. It is my understanding that Mr. Sant's Phase II direct testimony simply
119 presents Staff's view of the rate base and revenue requirement impact of Liberty's
120 recommendations, without offering support for Liberty's analysis.

121 Q. Does this conclude your rebuttal testimony in Phase II of this proceeding?

122 A. Yes, it does.